Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

JMYK, P.C., A CALIFORNIA PROFESSIONAL CORPORATION; JOHN M. KEEFE, INDIVIDUALLY,
PETITIONERS

v.

WASHINGTON STATE BAR ASSOCIATION

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the Due Process Clause of the United States Constitution prevent a federal court from exercising personal jurisdiction over civil proceedings involving a lawyer's suspension pursuant to the standards of Middlesex Ethics Comm. v. Garden State Bar Ass'n., 457 U.S. 423 (1982), on the grounds that the punishing sanction occurred in another state, where the requirements of a state's long-arm statute are met, and when the relationship to the forum makes the exercise of personal jurisdiction reasonable?

2. Is venue in an action against a Bar Association under 42 U.S.C. Section 1983 for a suspension imposed in alleged violation of the Middlesex standards present in a federal district outside the state where the prosecution and the disciplinary sanctions occurred, when activities underlying the claims have occurred in the forum district, and where harm in the forum giving rise to the claims has occurred?

PARTIES TO THE PROCEEDING

The following list identifies all parties before the Court of Appeals: JMYK, P.C., a California Professional Corporation, John M. Keefe, and the Washington State Bar Association.

As provided by Rule 29.6 of the Rules of this Court, petitioners state the following: JMYK, P.C., is a California Professional Corporation, and has no parent, subsidiary or publicly held corporations or companies owning 10% or more of the corporation's stock.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING ii

RULE 29.6 STATEMENT ii

TABLE OF CONTENTS iii

TABLE OF AUTHORITIES v

OPINIONS BELOW 1

JURISDICTION 1

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED 1

STATEMENT OF THE CASE 1

REASONS FOR GRANTING THE PETITION 8

I. *The Petition Presents the Important Federal Question of Whether Personal Jurisdiction in an Action Against a Bar Association for a Suspension In Violation of the Standards of Middlesex Ethics Comm. v. Garden State Bar Ass'n., 457 U.S. 423 (1982), is Present in a Federal Judicial District Outside the State Where the Effects Giving Rise to the Claim are Alleged to Have Occurred* 8

A. The Conclusion that Personal Jurisdiction is not Present in this Case

is Contrary to this Court's Decision in Calder v. Jones, 465 U.S. 783 (1984) 10

B. There was Sufficient Evidence of a Violation of the Standards in Middlesex Ethics Comm. v. Garden State Bar Ass'n., 457 U.S. 423 (1982) to Warrant a Determination of Personal Jurisdiction in California 15

II. *The Petition Presents the Important Federal Question of Whether Venue in an Action Against a Bar Association Under 42 U.S.C. § 1983 is Present in a Federal Judicial District Outside the State Where Substantial Activities Giving Rise to the Claim are Alleged to Have Occurred* 21

CONCLUSION 28

APPENDIX

CIRCUIT COURT OPINION (04/13/05) 1a

DISTRICT COURT TRANSCRIPT 3a

DISTRICT COURT DECISION 11a

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED 25a

TABLE OF AUTHORITIES

Page

CASES

ASAHI METAL INDUSTRY CO. v. SUPERIOR COURT, 480 U.S. 102 (1987) 10, 11, 14

BAFFERT v. CALIFORNIA HORSE RACING BD., 332 F.3D 613 (9TH CIR. 2003) 17, 20

BARRY v. BARCHI, 443 U.S. 55 (1979) 27

BATES v. C & S ADJUSTERS, INC., 980 F.2D 865 (2ND CIR. 1992) 23, 24, 25

BURGER KING CORP. v. RUDZEWICZ, 471 U. S. 462 (1985) 10, 13, 14

CALDER v. JONES, 465 U.S. 783 (1984) ..... *passim*

CLARK v. STATE OF WASHINGTON, 366 F.2D 678 (9TH CIR. 1966) 19

COTTMAN TRANSMISSION SYSTEMS, INC. v. MARTINO, 36 F.3D 291 (3D CIR. 1994) 25

DOE v. STATE BAR OF CALIFORNIA, 582 F.2D 25 (9TH CIR. 1978) 7, 8, 19

FIRST OF MICHIGAN CORP. v. BRAMLET, 141 F.3D 260 (6TH CIR. 1998) 22, 23, 25

GORDY v. DAILY NEWS, L.P., 95 F.3D 829 (9TH CIR. 1996) 12, 15

HUFFMAN v. PURSUE, LTD., 420 U.S. 592 (1975) 18

IN RE ALLOTTA, 109 WN.2D 787, 748 P.2D 628 (1988) 4

INTERNATIONAL SHOE CO. V. WASHINGTON, 326 U.S. 310 (1945) 10

INTERNATIONAL UNION V. KARR, 994 F.2D 1426 (9TH CIR. 1993) 9

JENKINS BRICK CO. V. BRENNER, 321 F.3D 1366 (11TH CIR. 2003) 25

KEETON V. HUSTLER MAGAZINE, INC., 465 U.S. 770 (1984) 11, 14

KING V. RUSSELL, 963 F.2D 1301 (9TH CIR. 1992) 8, 21, 26

KUGLER V. HELFANT, 421 U.S. 117 (1975) 17

LEATHERMAN V. TARRANT COUNTY NARCOTICS INTELLIGENCE AND COORDINATION UNIT, 507 U.S. 163 (1993) 16

LEROY V. GREAT W. UNITED CORP., 443 U.S. 173 (1979) 23, 24

MACKAY V. NESBETT, 412 F.2D 846, (9TH CIR.), CERT. DENIED, 396 U.S. 960 (1969) 7, 8, 19

MIDDLESEX ETHICS COMM. V. GARDEN STATE BAR ASS'N., 457 U.S. 423 (1982) ..... *passim*

MITCHUM V. FOSTER, 407 U.S. 225 (1972) 18

MYERS V. BENNETT LAW OFFICES, 238 F.3D 1068 (9TH CIR. 2001) 25

NIERBO V. BETHLEHEM SHIPBUILDING CORP., 308 U.S. 165 (1939) 23

PECORARO V. SKY RANCH FOR BOYS, INC., 340 F.3D 558 (8TH CIR. 2003) 24

PIT RIVER HOME AND AGR. CO-OP ASS'N V. U.S., 30 F.3D [illegible] 9TH CIR. 1994) 9

PULLIAM V. ALLEN, 466 U.S. 522 (1984) 19

ROSENTHAL V. JUSTICES OF THE SUPREME COURT OF CALIFORNIA, 910 F.2D 561 (9TH CIR. 1990) 9

SCHEUER V. RHODES, 416 U.S. 232 (1974) 15

SETCO ENTERPRISES CORP. V. ROBBINS, 19 F.3D 1278 (8TH CIR. 1994) 23

SUMMIT HEALTH, LTD. V. PINHAS, 500 U.S. 322 (1991) 16

TEFAL, S.A. V. PRODUCTS INT'L CO., 529 F.2D 495 (3RD CIR. 1976) 24

UFFNER V. LA REUNION FRANCAISE. S.A., 244 F.3D 38 (1ST CIR. 2001) 25, 26

WOODKE V. DAHM, 70 F.3D 983 (8TH CIR. 1995) 25

WORLD-WIDE VOLKSWAGEN CORP. V. WOODSON, 444 U.S. 286 (1980) 10, 11

YOUNGER V. HARRIS, 401 U.S. 37 (1971) ..... *passim*

FEDERAL STATUTES

28 U.S.C. § 1331 23

28 U.S.C. § 1391(a) 23

28 U.S.C. § 1391(b) ..... *passim*

28 U.S.C. § 1391(b)(1) 8

28 U.S.C. § 1391(b)(2) 8

28 U.S.C. § 1254(1) 1

42 U.S.C. § 1983 ..... *passim*

Civil Rights Act of 1871 § 2, 17 Stat. 13 18

Civil Rights Act of 1871 § 1, 14 Stat. 27 18

FEDERAL RULES

Fed. R. Civ. P. 8(a)(2) 16

Fed. R. Civ. P. 12(b) 5

Fed. R. Civ. P. 12(b)(1) 5

Fed. R. Civ. P. 12(b)(3) 5

Fed. R. Civ. P. 12(b)(6) 16, 17

CALIFORNIA STATUTES & RULES

Cal. Civ. Proc. Code § 410.10 11

WASHINGTON STATUTES & RULES

Washington Rule for Enforcement of Lawyer Conduct (ELC) 2.12(a) 1, 13, 19

Washington Rule for Lawyer Discipline (RLD) 4.11(b) 4

Washington Rule of Professional Conduct (RPC) 1.2 1

Washington Rule of Professional Conduct (RPC) 1.7(b) 1

OTHER AUTHORITIES

David D. Siegel, Commentary on the 1988 and 1990 Revisions of Section 1391, Subdivision (a), Clause (2), 28 U.S.C.A. § 1391 (1993) 22

Report of the Fed. Courts Study Comm. 94 (Comm. Print 1990 22

H.R.Rep. No. 734, 101st Cong. 2nd Sess. 23 (1990) 22

OPINIONS BELOW

The opinions of the Ninth Circuit Court of Appeals and the District Court, not officially reported, appear in the Appendix hereto.

JURISDICTION

The judgment of the Court of Appeals for the Ninth Circuit was entered on April 13, 2005. By order of the Court, entered on August 19, 2005, the date for filing the petition for writ of certiorari is October 17, 2005. This Court has jurisdiction under 28 U.S.C. Section 1254(1).

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

28 U.S.C. §1391(b), 42 U.S.C. § 1983,Washington Rule for Enforcement of Lawyer Conduct 2.12(a), and Washington Rules of Professional Conduct 1.2 and 1.7(b) are set out in their entirety in the Appendix hereto. Appendix, "App." 25a-29a.

STATEMENT OF THE CASE

In April 2004, petitioners, residents of California, brought this action under 42 U.S.C. § 1983 in the United States District Court for the Central District of California against the Washington State Bar Association. The action arises from a State Bar decision of suspension against petitioner on December 19, 2003. App., 13a.

The complaint alleges that the Washington State Bar Association suspended petitioner for violating State Bar conflict of interest rules in arguments in the appeal of a civil case that reversed the liability of the clients and petitioner under summary judgment orders for attorney fees of approximately $50,000 that had been entered against them. App. 23a, R.2, 3.[1] Petitioners' clients were exonerated in the appeal. In December 2001, the Washington Court of Appeals reversed and vacated the summary judgment orders. In April 2002, the State Bar filed a formal complaint against petitioner, charging that petitioner did not obtain the consent of the clients to the arguments in the appeal that vacated petitioners' liability under the orders in violation of Washington Rule of Professional Conduct ("WRPC") 1.2 (client consultation), and WRPC 1.7(b) (client consent in writing after consultation and a full disclosure of the material facts). App. 12a, R. 2, 27.

The State Bar's charges culminated in a six month suspension after a hearing in Washington on these charges in the absence of testimony or statements from the clients. The clients reside out-of-state. Their

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1 Petitioners' clients had settled in an earlier case for funds and stock in a NASDAQ listed company. The agreement has a provision for legal fees and costs to the party(ies) that substantially prevail in proceedings arising out of the agreement. The order granting summary judgment provided, "Counsel's arguments did not prevail, but were not frivolous." The order granting attorney fees was entered against "Plaintiffs and/or their attorney of record." App. 23a. The Washington Court of Appeals reversed and vacated the orders holding that there were material issues of fact on the clients' claims, thus requiring reversal of the dismissal of the claims. It also held that the inclusion of appellants' counsel in the judgment was baseless. R. 2, 3.